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Frank S. Simone
Government Affairs Director

Suite 1000
1120 20th Street, N.W.
Washington, DC 20036
202 457-2321
FAX 202 457-2165
fsimone@lgamgw.attmail.com

July 12, 1997

Mr. William F. Caton, Acting Secretary
Federal Communications Commission
1919 M Street, N. W.
Washington, D. C. 20554

RECEIVED
JUL 11 1997
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Ex Parte, CC Docket No. 95-116, Telephone Number Portability

Dear Mr. Caton:

On July 11, 1997 Harry Sugar and I of AT&T met with Steven Teplitz, Kyle Dixon, Claudia Pabo and Jonathan Askin, all of the Common Carrier Bureau's Policy and Program Planning Division. The purpose of the meeting was to discuss statements placed on the record in this proceeding by Bell Atlantic in an ex parte letter dated June 27, 1997 regarding the activities of the Mid-Atlantic Carrier Acquisition Company ("MCAC"), a regional limited liability corporation ("LLC") established to oversee the local number portability administrator in Maryland.

In the June 27 letter, Bell Atlantic characterizes the release of MCAC's Standard User Agreement to them for review as occurring only as the result of an order by the Maryland Public Service Commission. This characterization is inaccurate. In the attached letter to Mr. Daniel P. Gahagan, Executive Secretary of the Public Service Commission of Maryland from Ms. Anne F. La Lena, Chairman of the Mid-Atlantic Carrier Acquisition Company, dated May 27, 1997, MCAC's efforts to resolve the issues of contention between the two parties are clearly documented. Contained in the letter at Page 7 is MCAC's offer to provide Bell Atlantic with a copy of the Standard User Agreement subject to Bell Atlantic's execution of a non-disclosure agreement and the approval of the vendor.

Quite apart from any alleged "intransigence" on the part of MCAC, it is Bell Atlantic that has been seeking to delay implementation of permanent local number portability in Maryland. As indicated in Ms. La Lena's May 27, 1997 letter at Page 6:

"Fourth, BA's 11th hour request calls into question the intentions of BA to comply with the Commission's established implementation schedule. BA's request emerges 11 months after the Commission's June 1996 Order establishing this schedule, 13 months after the formation of the Master Contract and

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standard User Agreement regime, and five months after BA was formally notified of the commencement of Master Contract negotiations. BA's request also emerges just 40 days in advance of the third quarter of 1997 and just several days ahead of the anticipated conclusion of the Master Contract negotiations. Moreover, MCAC notes that on the same March 21, 1997 date BA announced to the Consortium its intent to negotiate its own agreement with the vendor, it also proposed to the Consortium a delay until October 31 in BA's implementation of LNP, a proposal that would fail to meet the Commission's implementation schedule set in June of 1996 and that was subsequently submitted to the Commission on May 9, 1997."

In closing, it should be noted that Bell Atlantic is the only major local exchange company in the United States to refuse to join a regional LLC.

Two copies of this Notice are being submitted to the Secretary of the FCC in accordance with Section 1.1206(a)(1) of the Commission's Rules.

Sincerely,



ATTACHMENT

cc: Ms. C. Matthey
Mr. K. Dixon
Mr. S. Teplitz
Ms. C. Pabo
Mr. J. Askin

Mid-Atlantic Carrier Acquisition Company

Anne F. La Lenza
Chairman
Tel: (202) 776-1550
Fax: (202) 776-1555

Kenneth M. Prohoniak
Secretary
Tel: (202) 828-7455
Fax: (202) 828-7403

May 27, 1997

VIA HAND DELIVERY

Mr. Daniel P. Gahagan
Executive Secretary
Public Service Commission of Maryland
6 St. Paul Centre, 16th Floor
William Donald Schaefer Tower
Baltimore, Maryland 21202-6806

FILED

MAY 27 1997

PUBLIC SERVICE COM'N
OF MARYLAND

Re: Case No. 8704
Permanent Local Number Portability

Dear Mr. Gahagan:

The Mid-Atlantic Carrier Acquisition Company ("MCAC") hereby replies to the Commission's request for further information regarding the legal issues and problems created if, under certain circumstances described below, Bell Atlantic ("BA") were to negotiate jointly with MCAC for a Master Contract to obtain local number portability ("LNP") database services. Those circumstances, made clear at the Commission's May 21 Administrative Meeting, are: (1) BA does not seek to be a party to the Master Contract, (2) BA does not indicate any interest in becoming a member of MCAC, and (3) BA requests to join the negotiations, now nearly completed between MCAC and a vendor of LNP database services, on the standard User Agreement, a component of the Master Contract.

BA's request, if granted, would raise legal issues and problems that would create undue risks for MCAC members, effectively eliminate any prospect of timely LNP deployment, and potentially suspend LNP deployment in the mid-Atlantic region. Although MCAC has not previously raised the issue of BA's membership in MCAC, in light of the legal issues and problems arising from BA's request, MCAC now hereby requests that the Commission strongly encourage, and if necessary order, BA membership in MCAC. This request concurs with Staff's repeated recommendations that BA join MCAC.¹ As described below, BA membership would

¹See, Staff's Second Quarterly Report of the Maryland LNP Consortium, pp. 42-43; Third Quarterly Report of the Maryland LNP Consortium, pp. 9-12; and Recommendations to the Commission dated May 13, 1997.

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fully address and resolve every issue surrounding the joint filing by five of MCAC's members dated May 7 and the May 21 request by BA.

I.

Summary of Background

In its Order No. 72708 dated June 24, 1996 at page 6, the Commission affirmed the continuation of the activities of the Maryland LNP Consortium ("Consortium"), including the pursuit of the goals of issuance of an RFP and an LNP implementation date of third quarter 1997 for Maryland's two largest LATAs. The Commission further acknowledged the "governance and organization" of MCAC as the device to be utilized to "further these [Consortium] goals." Within the framework of Case No. 8704, for the past 11 months MCAC has proceeded to implement extensive efforts necessary to comply with the Commission's implementation date by selecting and contracting with a vendor for the provision of LNP database services. Since such a vendor is expected to derive tens of millions of dollars in compensation for its sophisticated and intricate services, the governance and organization of MCAC, under the auspices of the Consortium and Case No. 8704, implemented an appropriate and necessary risk management strategy to which its membership of competing carriers could agree.

Also within the framework of Case No. 8704, the Consortium established the regime of contractual relationships necessary to implement LNP in Maryland. This regime is: (1) a Master Contract is to be negotiated between MCAC (comprised of member carriers) and the vendor providing LNP database services, and (2) a standard User Agreement is to be executed between the vendor and each entity, including any MCAC member, electing to use the vendor's services ("User"). In effect, the Master Contract serves to put in place the vendor under certain pricing, performance and accountability provisions, while the standard User Agreement is both an order form that incorporates the Master Contract's pricing terms and a requirements document that authorizes a carrier or other entity to use the services of the vendor.

That the Master Contract would be negotiated by a single entity such as MCAC was the result of substantial investigation and discussion by the Consortium. The overwhelming consensus of the Consortium was that it would be impractical and wholly unworkable for multiple carriers, many of whom are competitors, to enter into a Master Contract with an LNP database services vendor as individual parties to that Master Contract. Differing viewpoints among carriers would be likely to create insurmountable obstacles to Master Contract negotiations. Moreover, it would be unlikely that any vendor could come to terms, within the Commission's established implementation schedule, with such a disparate and potentially non-unified front of carriers.

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Significantly, the entire Master Contract and standard User Agreement regime has been extensively discussed within the Consortium and agreed upon as early as April 1996.² This regime was decided with BA's participation and acquiescence under the auspices of the Consortium, reported to the Commission in Staff's Second Quarterly Report (p. 12 and Exh. 6), and implemented by MCAC upon its June 1996 formation. BA has raised no objection or complaint regarding this regime for the 13 months the regime has been in place, but 40 days before the commencement of the 3rd quarter of 1997, BA now raises its first concern.

BA's eleventh-hour concerns also emerge just days before the expected completion of Master Contract negotiations. Following its five-month vendor evaluation efforts during August through December 1996, MCAC initiated Master Contract negotiations with its selected vendor, Lockheed Martin IMS, in January 1997. Through protracted and complex negotiations, MCAC has undertaken extraordinary efforts to achieve the best possible price for the highest quality database services. Those negotiations have resolved hundreds of issues and now are more than 95 percent complete, with the final elements of less than five issues remaining to be resolved. Both the Consortium and MCAC have informed BA of the schedule of Master Contract negotiations repeatedly during 1996 and 1997, including by formal written notice from MCAC on December 19, 1996 (enclosed as Attachment 1). BA has raised no objection or complaint before the Commission regarding the negotiations during the five months that they have been underway, but just days before their expected conclusion, BA now raises its first concern.

These negotiations on the Master Contract are inextricably linked to the negotiations on the standard User Agreement. This is because the standard User Agreement is part of the Master Contract and incorporates, by references to the Master Contract, all of its pricing terms (these terms specify that prices for each User will be an allocated amount of the aggregate of all charges to Users based on the allocation model to be issued by the FCC in its pending LNP cost recovery docket³). Accordingly, a party cannot negotiate on only the User Agreement; any participation in the User Agreement negotiations necessarily entails participation in the Master Contract negotiations. Bell Atlantic's May 21 request, which is to negotiate jointly with MCAC for the standard User Agreement, is therefore effectively a request to negotiate jointly with MCAC on the Master Contract.

Finally, as all parties to this proceeding agree, time is extremely short. If there is to be any hope of LNP deployment in accordance with the implementation schedule set by the Commission *and as modified by the schedule delay until October 31 proposed by BA on May 9,*

²See, Consortium Meeting Minutes of April 2 and 3, 1996 (provided in the May 7 filing by five MCAC members).

³In the Matter of Telephone Number Portability, CC Docket No. 95-116.

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the Master Contract and standard User Agreements must be allowed to progress immediately toward execution as expeditiously as possible.

Legal Issues

1. Legal Liability. Bell Atlantic is not a member, and it has stated it does not intend to become a member, of MCAC. However, under Maryland's joint and several liability doctrine,⁴ MCAC could be jointly and severally liable for any claim against BA arising from BA's impact upon the negotiations or upon any other aspect of the Master Contract. The doctrine provides that in the event of BA's inability or unwillingness to pay a judgment against it for an action related to the Master Contract, a party to the Master Contract such as MCAC may be held liable for that judgment. BA acts such as bad faith, fraud, deceit, gross negligence, willful misconduct, wrongful taking, or the provision of false or misleading information could have a significant negative effect on MCAC, not only because MCAC must defend against such claims but because MCAC's insurance does not cover such intentional misconduct (nor would any insurance coverage be available to protect against such risks). Accordingly, such acts could place MCAC's own assets, or potentially MCAC members themselves, at risk for BA's liability. Since MCAC's negotiations are for LNP deployment in the seven jurisdictions comprising the Bell Atlantic service area, negotiations-related liability arising anywhere in the area caused by Bell Atlantic or any of its seven operating companies could accrue to MCAC. Legal responsibility of this nature and to this extent, for the acts of a competitor, is inappropriate and cannot be assumed by MCAC.

The centerpiece of MCAC's risk management strategy addresses this precise concern, but only as to MCAC members. Under Article VIII of MCAC's Operating Agreement, all members are protected by MCAC's insurance and will be indemnified by MCAC for actions made in good faith on behalf of MCAC, but significantly, there is *no* indemnification or protection of a member determined to have acted in bad faith, with deliberate dishonesty, for improper personal gain, or in contravention of law. Such bad acts will expose the member committing them to sole and several liability, from which MCAC and its members will be immune. Given MCAC's current membership of carriers that are in competition with one another, this risk management strategy is the *only* viable approach for any joint venture of competing organizations. Without these protections and accountability measures, it was clear during the Consortium's 1995 and 1996 discussions that carriers would not agree to participate in such a joint venture.

If BA were to join MCAC, MCAC's concerns would disappear as BA would be accountable, just as all other MCAC members are, for its intentional wrongdoing and other bad

⁴By the terms of its Operating Agreement at Section 14.3, MCAC is governed by Maryland Law.

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acts. In addition, BA would be protected from the intentional wrongdoing and other bad acts of any other MCAC member.

2. Competitive Neutrality. BA's request is for all the negotiation rights and associated privileges of MCAC membership, without the responsibilities that necessarily accompany MCAC membership. These responsibilities include fiduciary duties arising under common law owed between and among MCAC members. These responsibilities also include financial obligations; MCAC members have to date expended more than \$100,000, as well as resources and in-kind contributions well exceeding that dollar figure, to support MCAC's LNP implementation efforts. BA's request is to have a role in the Master Contract negotiations unlike any other carrier, and as such, to be treated differently than any other carrier implementing LNP, in contravention of the competitive neutrality directive of Section 251(e)(2) of the Telecommunications Act of 1996. The blatant inequity arising from BA's request would not be an issue if BA joined as a member of MCAC.

3. New Legal Issues Arising from BA's Request. Should BA's request be granted, an array of new unresolved issues would emerge. First and foremost, if BA were granted the right to join MCAC's Master Contract negotiations as a non-member of MCAC, a precedent would be set that would cause a parade of other wireless, cable television, wireline, interexchange, small independent and other carriers with even the slightest interest in porting numbers to seek the same opportunity. It is unclear to MCAC how BA could be permitted to join the negotiations while other carriers could be denied. Thus, BA's entrance into the negotiations could precipitate a massive influx of other carriers, and the impact on the near-completed negotiations would likely be devastating. Five months of negotiations progress, the costs of which have been borne entirely by MCAC members, could be lost, thereby effectively eliminating any prospect for compliance anywhere near the deadlines established under the Commission's implementation schedule.

Second, if BA were granted the right to join MCAC's Master Contract negotiations as a non-member, there is no mechanism to address the potential circumstance of disagreement between BA and MCAC on a Master Contract issue or provision. For example, there is no solution in place in the event that BA sought a Master Contract provision beneficial to the incumbent local exchange carrier but detrimental to all non-incumbents. On May 21, Commissioner Ligon raised this concern generally with BA, and BA's response that "we would move on" in the event of a disagreement is non-responsive and does not provide any solution. Moreover, the vendor, charged by the FCC with strictly maintaining competitive neutrality in its implementation of LNP database services,⁵ would have no way of maintaining its neutrality if

⁵In the Matter of Telephone Number Portability, First Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 95-116, FCC 96-286 (released July 2, 1996), paras. 92, 93.

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required to choose between negotiation participants in the event of a disagreement. If BA's entrance into the negotiations precipitates the likely entrance of other interested carriers into the negotiations as discussed above, the problem of disagreement among participants, and its potential disruption of the negotiations, is significantly exacerbated. Disruption and delay in the negotiations further jeopardizes timely deployment of LNP in accordance with the Commission's established implementation schedule.

Third, if BA were granted the right to join MCAC's Master Contract negotiations as a non-member of MCAC, would such a right afford BA the legal right to participate in the on-going administration of the Master Contract? Many significant actions are expected to arise during administration, including decisions on renewal of the vendor, enhancements to the LNP database, and resolution of disputes with the vendor. MCAC again notes its aforementioned concerns of legal liability, competitive neutrality, influx of other interested non-party administrators, and disagreement among administrators if BA was to enjoy a right to participate in the administration of the Master Contract, incident to its participation in the negotiations.

Fourth, BA's 11th-hour request calls into question the intentions of BA to comply with the Commission's established implementation schedule. BA's request emerges 11 months after the Commission's June 1996 Order establishing this schedule, 13 months after the formation of the Master Contract and standard User Agreement regime, and five months after BA was formally notified of the commencement of Master Contract negotiations. BA's request also emerges just 40 days in advance of the third quarter of 1997 and just several days ahead of the anticipated conclusion of the Master Contract negotiations. Moreover, MCAC notes that on the same March 21, 1997 date BA announced to the Consortium its intent to negotiate its own agreement with the vendor, it also proposed to the Consortium a delay until October 31 in BA's implementation of LNP, a proposal that would fail to meet the Commission's implementation schedule set in June of 1996 and that was subsequently submitted to the Commission on May 9, 1997. In light of these overall circumstances surrounding LNP implementation in Maryland and throughout the mid-Atlantic region, BA's request should be construed as an untimely and undue threat to the Commission's established implementation schedule, and thus should be rejected.

Finally, MCAC notes that the four preceding legal issues arising from BA's entrance into the negotiations would be fully addressed and resolved if BA was to become a member of MCAC. No precedent for other interested carriers to intervene into the negotiations would be set, disputes between MCAC members would be resolved either by MCAC members or MCAC's established dispute resolution process and thus would not unduly disrupt the negotiations, BA would be fully authorized to participate in Master Contract administration, and the prospects for timely compliance with the Commission's established implementation schedule would be greatly enhanced. MCAC hereby renews its repeated invitations to BA to join MCAC, and notes that another ILEC with a significant presence in the mid-Atlantic region, GTE, has just joined MCAC. Significantly, MCAC made at least 15 revisions to its Operating Agreement requested

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by GTE, in an effort to accommodate GTE's concerns with the conditions and requirements of MCAC membership.

4. BA's Request If Granted Would Obviate the Need for MCAC in Contravention of the Direction of Case No. 8704 and the Report of the North American Numbering Council ("NANC"). As described above, BA's request, if granted, would eliminate the liability protections competing carriers have established between one another and the single negotiating front that competing carriers must present to the vendor in order to bring about a timely and rational execution of the Master Contract. BA's request, if granted, would also jeopardize the equal voice each carrier would exercise in the negotiations by injecting a new party, not subject to MCAC's one-vote-per-member policy, into the negotiations. To eliminate these features is to effectively eliminate the need for MCAC at all. Such action would contradict the Commission's own acquiescence to MCAC and its governance and organization as the vehicle to implement the Commission's established LNP goals.⁶ Such action would also directly conflict with the strong endorsement of MCAC and the other six limited liability companies implementing LNP throughout the nation made by the NANC to the FCC on April 25, 1997. MCAC notes that NANC is the Federal Advisory Committee to the FCC comprised of a cross section of telecommunication industry segments charged with exhaustively examining LNP deployment activities throughout North America, including the activities and characteristics of MCAC and its six counterparts. NANC expressly recognized the concerns for liability protection, single-front negotiations with the vendor, and equal voices among Master Contract negotiators in Section 4.6 and 4.4.2 of its Report recommending and endorsing MCAC and its counterparts.⁷

II.

Proposed Solution

In light of the positions of MCAC and BA recently expressed, and in light of the views presented herein, MCAC makes the following offer in an attempt to resolve the issues in dispute. Since BA and all other Users are to enter into a standard User Agreement, MCAC is willing to provide a copy of the current draft of the standard User Agreement to BA and any other potential User requesting a copy, subject to two conditions. First, BA and any other potential User requesting a copy must execute an appropriate non-disclosure agreement ensuring non-disclosure

⁶See, Order No. 72708, p. 6

⁷See, Sections 4.6.1, 4.6.2, 4.6.3 and 4.4.2 of the North American Numbering Council (LNPA Selection Working Group) to the Federal Communications Commission (April 25, 1997), a copy of which is enclosed as Attachment 2.

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of the copy to any third party. Second, MCAC's provision of the current draft of the standard User Agreement to BA or any other potential user requesting a copy is subject to the approval of the vendor, Lockheed, with whom MCAC is now negotiating.

Thank you for your consideration of these issues. Please direct any questions concerning these issues to me or Anne La Lena, MCAC Chairman.

Sincerely,



Carville B. Collins
MCAC Counsel

Enclosures

cc: Anne F. La Lena, MCAC Chairman

Robert D. Lynd, Assistant General Counsel, Bell Atlantic-Maryland

Attachment 1

Mid-Atlantic Carrier Acquisition Company

36 South Charles Street
Baltimore, MD 21201-3018

Anne F. La Lena
Chairman
Tel: (703) 506-2060
Fax: (703) 827-7426

Kenneth M. Prohomink
Secretary
Tel: (202) 828-7455
Fax: (202) 828-7403

December 19, 1996

Robert D. Lynd, Esquire
Bell Atlantic-Maryland
8th Floor - East Wing
1 East Pratt Street
Baltimore, Maryland 21202

Dear Bob:

MCAC wishes again to remind Bell Atlantic that MCAC will be commencing negotiations immediately with selected vendors for the procurement of a number portability administration center and service management system to provide database and associated services for permanent local number portability in Maryland. Accordingly, as has been done on numerous previous occasions, MCAC invites Bell Atlantic to join MCAC. We note that Bell Atlantic has consistently declined MCAC's invitation to join. We further note that as has been the case since the inception of MCAC, membership in MCAC has been entirely open to Bell Atlantic. Thank you.

Sincerely,


Anne F. La Lena
MCAC Chairman

cc: Renie Spriggs

contract negotiations that Vendors bid on the provision of NPAC/SMS services on a regionalized basis.

4.5.2 LLCs also conform well to the Criterion requiring consistency in LNP administration. Although the seven (7) LLCs are established under state laws, the LLC laws in the 50 states are substantially similar (in contrast, laws governing partnerships and other corporate forms contain wide variation among the states). Accordingly, the seven (7) LLCs are virtually identical in their structure and operation, and they are governed by operating agreements which are also substantially similar (there are minor variations in operating agreement provisions reflecting certain policy and business determinations made on a region-specific basis). Accordingly, there will necessarily be substantial uniformity and consistency in the manner of contracting with and supervising of LNPAs.

4.6 LLC Attributes Addressing Legal and Practical Considerations

4.6.1 Early in the RFP process, it became clear to the Service Providers that LNPA selection necessarily entailed the procurement in each region of a large and sophisticated database service provider that would be deriving multi-million dollar compensation for regionalized deployment of its services. This presented several problems. There needed to be a single legal entity contracting with the LNPA to implement such a procurement, and such an entity had to be an acceptable and even attractive business venture to Service Providers that would comprise and govern it. Such a procurement had to be completed well within the FCC's stringent deployment schedule so as to permit NPAC SMS development and testing in advance of the deployment deadlines. Given the potential financial liabilities associated with such a business venture, Service Providers were initially quite reluctant to participate in joint contracting activity. LLCs were uniquely well suited to resolve all of these legal and practical concerns fully.

4.6.2 An LLC affords its members complete statutory protection from liability, whether in tort, contract or otherwise. All liability is assumed exclusively by the LLC itself, and any liability exposure can be fully managed and protected against by liability insurance coverages secured by the LLC. These advantages served to allay the liability concerns of Service Providers. No other corporate or organizational form possesses such attributes.

4.6.3 An LLC was a suitable, single legal entity with which an LNPA would agree to contract. The reality of procuring LNPAs is that they would not undertake the impractical approach of bidding or contracting with multiple organizations for a single service, nor would they contract with an entity that excluded any party intending to port numbers or newly enter the local exchange service market. The LLC, with its open membership policy allowing all interested Service Providers

to be organized under the auspices of a single legal entity, created the conditions necessary for the LNPAs to proceed to contract.

- 4.6.4 An LLC was ideally suited as a flexible and easily governed organization that could quickly implement the procurement of an LNPA within the FCC's stringent deployment schedule. LLCs can be formed quickly, and unlike other corporate and organizational forms, they can make decisions and conduct their business with great speed and flexibility and without the statutory constraints, formalities and time requirements associated with more traditional corporate governance.
- 4.6.5 The LLCs are aware that NANC will ultimately review and act on the selection of LNPAs and determine the guidelines for LNP deployment. As part of this authority, NANC will review the full scope of all past and current LLC activity. The LLC's intention is, and has always been, to present its progress for NANC to embrace and adopt as NANC's own progress. Given the FCC's stringent deployment schedule, the LLCs reasonably believe that NANC will adopt (and alter as appropriate) the LLCs' significant progress as the common sense, practical course of action, rather than commence deployment efforts anew and recreate existing progress.

4.4 LLC Attributes Complying with the Competitive Neutrality Criteria

- 4.4.1 In each of the seven (7) regions where LNPAs are being selected, LLCs have been established and specifically designed to maintain competitive neutrality. Membership in the LLC is open to any local exchange carrier, whether or not certified, intending to port numbers in the region. This open membership policy would apply equally to incumbent and competing local exchange carriers, as well as to any new entrant into the business of local exchange service. To fund the LLC's administrative expenses, capital contributions are imposed equally on LLC members (in modest allotments of \$10,000 to \$20,000). All these requirements permit open and barrier-free membership in a manner that treats all local exchange carriers equally.
- 4.4.2 Each LLC member possesses a single, equal vote in all matters decided by the LLC. Most LLC decisions are made by a simple majority vote. In recognition that under such conditions the voting power of a single member can be diluted by the collective votes of other members, and that this circumstance may not always be appropriate for certain matters of significant importance, LLCs have required that certain decisions be made unanimously or by super majorities. These extraordinary majorities have been required for such decisions as LLC operating agreement amendments, master contract execution, debt issuance and mergers. To maintain the one-vote-per-member policy in an industry filled with affiliated interests and constantly evolving corporate structures among carriers, affiliated members are collectively entitled to a single vote. Affiliation thresholds are at 10 percent (or 15% in the Western Region LLC), in conformity with the definition of affiliation established in the 1996 Act. Because of various business and policy considerations, the West Coast Region LLC adopted a 50% affiliation threshold. The overall voting regime of the LLC guarantees each member an equal voice and in appropriate circumstances an equally magnified voice or equal veto power, and thus has carefully and effectively achieved competitive neutrality among members.
- 4.4.3 The combination of open membership and a one-vote-per-member policy facilitates full and vigorous neutrality in the actions of LLCs. The LLCs are comprised of RBOCs, CLECs, and carriers providing local services in combination with an array of other services. All of the LLCs are open to CMRS provider membership at such time as they intend to or are porting numbers. These members are in competition with each other. With equal voices in LLC decision making, these competitors will scrutinize all activities for any hint of favoritism, and thereby act as an effective check and balance on each other.
- 4.4.4 The LLC is a flexible and simple organization. These characteristics are uniquely well suited to permit an LLC to establish its own governance, as well as to submit to the governance of federal and state regulators. This has led all seven (7) LLCs, by the terms of their respective operating agreements, to empower